

[DISCUSSION DRAFT]

118TH CONGRESS
2D SESSION

H. R.

To amend title XI of the Social Security Act to exclude from antikickback and other sanctions certain travel and lodging arrangements between manufacturers of drugs and individuals being administered such drugs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M . introduced the following bill; which was referred to the
Committee on

A BILL

To amend title XI of the Social Security Act to exclude from antikickback and other sanctions certain travel and lodging arrangements between manufacturers of drugs and individuals being administered such drugs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “ Act
5 of 2024”.

1 **SEC. 2. EXCLUDING FROM ANTIKICKBACK AND OTHER**
2 **SANCTIONS CERTAIN TRAVEL AND LODGING**
3 **ARRANGEMENTS BETWEEN MANUFACTUR-**
4 **ERS OF DRUGS AND INDIVIDUALS BEING AD-**
5 **MINISTERED SUCH DRUGS.**

6 Section 1128B of the Social Security Act (42 U.S.C.
7 1320a–7b) is amended—

8 (1) in subsection (b)(3)—

9 (A) in subparagraph (J), by striking at the
10 end “and”;

11 (B) in subparagraph (K), by striking at
12 the end the period and inserting “; and”; and

13 (C) by adding at the end the following new
14 subparagraph:

15 “(L) an arrangement described in subsection (i)
16 between a manufacturer of a drug and an individual
17 who is prescribed such drug.”; and

18 (2) by adding at the end the following new sub-
19 section:

20 “(i) For purposes of subsection (b)(3)(L), an ar-
21 rangement described in this subsection between a manu-
22 facturer of a drug and an individual who is prescribed
23 such drug is an arrangement entered into on or after Jan-
24 uary 1, 2025, that satisfies each of the following:

25 “(1) The arrangement provides for payment or
26 reimbursement by the manufacturer for transpor-

1 tation, lodging, meals, or other incidental expenses
2 specified by the Secretary connected with such ad-
3 ministration and relating to travel to and from the
4 facility at which such drug is to be administered, for
5 the individual and up to two caregivers of the indi-
6 vidual (as determined appropriate by the manufac-
7 turer, taking into account the individual's age and
8 medical needs) during any portion of the period dur-
9 ing which such individual is being administered such
10 drug (including initial visits to such facility before
11 such administration, and followup visits to such fa-
12 cility after such administration, relating to the ad-
13 ministration of such drug).

14 “(2) The arrangement does not provide for pay-
15 ment or reimbursement by the manufacturer for
16 transportation, lodging, meals, or other incidental
17 expenses described in paragraph (1) if the manufac-
18 turer knows that the individual is eligible to receive
19 at no cost, such transportation, lodging, meals, or
20 other out-of-pocket expenses, as applicable, from the
21 facility at which the drug is administered to the in-
22 dividual.

23 “(3) The manufacturer does not advertise the
24 arrangement and makes good-faith efforts to ensure
25 that the availability of such arrangement is not dis-

1 closed to such individual until after such drug is pre-
2 scribed to such individual, provided that such manu-
3 facturer does not interfere with a health care pro-
4 vider's ability to furnish such individual with any in-
5 formation determined appropriate by the provider.

6 “(4) If the arrangement provides for payment
7 or reimbursement by the manufacturer for transpor-
8 tation described in paragraph (1), such payment or
9 reimbursement is only for—

10 “(A) travel that is practical and conven-
11 ient, taking into account the individual's mobil-
12 ity or medical needs, which may include ground
13 transportation, air transportation, or transpor-
14 tation by train;

15 “(B) the costs directly associated with the
16 travel for the individual and caregivers as de-
17 scribed in paragraph (1), such as airfare, taxes,
18 tolls, gas, or other fees; and

19 “(C) travel between the individual's resi-
20 dence and the closest facility that is available to
21 administer such drug (or between any lodging
22 where such individual is staying in relation to
23 such administration and such facility).

1 “(5) If the arrangement provides for payment
2 or reimbursement by the manufacturer for lodging
3 described in paragraph (1), such lodging is—

4 “(A) reasonable based on the individual’s
5 age and medical needs;

6 “(B) near the facility at which such indi-
7 vidual is to be administered such drug; and

8 “(C) only provided during the period de-
9 scribed in paragraph (1).

10 “(6) If the arrangement provides for payment
11 or reimbursement by the manufacturer for meals
12 other incidental expenses described in paragraph (1),
13 the amount of such payment or reimbursement does
14 not exceed the per diem rate in effect for meals and
15 incidental expenses in the geographic area in which
16 such facility is located (as established by the General
17 Services Administration) for the individual and for
18 each caregiver allowed under the arrangement pur-
19 suant to paragraph (1).

20 “(7) The individual—

21 “(A) is determined to have income that
22 does not exceed the median income applicable to
23 a family of the size involved in the geographic
24 region (as specified by the Secretary) in which
25 such individual resides; and

1 “(B) lives more than 1 hour of driving dis-
2 tance (or 50 miles) from the nearest facility
3 that administers such drug and is accepting pa-
4 tients.

5 “(8) Such an arrangement is offered by the
6 manufacturer to individuals regardless of the facility
7 involved in the administration of the drug and re-
8 gardless of the insurance status of the individual.

9 “(9) The arrangement requires the individual to
10 agree to not request reimbursement from any Fed-
11 eral health care program for any costs for which
12 payment or reimbursement is made by the manufac-
13 turer under the arrangement.

14 “(10) The manufacturer certifies that the man-
15 ufacturer does not bill or shift the costs of the ar-
16 rangement to any of the Federal health care pro-
17 grams.”.